

STATE OF MICHIGAN
COURT OF APPEALS

LAURIE NINNIS,

Plaintiff,

and

KIRBY STEHLE and DONNA STEHLE,

Plaintiffs-Appellants,

v

ROBERT PICKELL,

Defendant-Appellee.

UNPUBLISHED

March 7, 2006

No. 265306

Genesee Circuit Court

LC No. 04-078649-NO

Before: Cooper, P.J., and Jansen and Markey, JJ.

PER CURIAM.

Plaintiffs Kirby and Donna Stehle appeal as of right from a circuit court order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant is the sheriff of Genesee County. Plaintiffs Laurie Ninnis and Kirby Stehle worked as deputies of the Genesee County Sheriff's Department, while Donna Stehle, wife of Kirby Stehle, worked for Flint Township. Plaintiffs claim that defendant defamed them in a televised interview by stating that they arranged to steal records of the Flint Township Police Department.¹ Plaintiffs also alleged intentional infliction of emotional distress. The trial court found that defendant was immune from liability, and granted his motion for summary disposition pursuant to MCR 2.116(C)(7).

Plaintiffs challenge the summary disposition ruling on the basis that defendant's televised comments exceeded the scope of his authority as the county sheriff. We review de novo a trial

¹ The records apparently concerned a Flint Township police officer's February 2003 stop of a Genesee County deputy sheriff for suspected operation of a motor vehicle under the influence of alcohol.

court's summary disposition ruling. *Kreiner v Fischer*, 471 Mich 109, 129; 683 NW2d 611 (2004).

“A judge, a legislator, and the elective or highest appointive executive official of all levels of government are immune from tort liability for injuries to persons or damages to property if he or she is acting within the scope of his or her judicial, legislative, or executive authority.” MCL 691.1407(5). The parties do not dispute that defendant is the highest elected executive official in the Genesee County Sheriff's Department. See Const 1963, art 7, § 4.

The parties dispute only whether defendant's televised interview occurred within the scope of his executive authority. The phrase “scope of authority” means, “The reasonable power that an agent has been delegated or might foreseeably be delegated in carrying out the principal's business.” *Backus v Kauffman (On Rehearing)*, 238 Mich App 402, 409; 605 NW2d 690 (1999), quoting Black's Law Dictionary (7th Ed), p 1348. To determine whether an official's actions qualify as within the scope of his authority, courts should consider factors such as “the nature of the specific acts alleged, the position held by the official alleged to have performed the acts, the charter, ordinances, or other local law defining the official's authority, and the structure and allocation of powers in the particular level of government.” *Marrocco v Randlett*, 431 Mich 700, 711; 433 NW2d 68 (1988).

Under Michigan law, matters pertaining to law enforcement and the hiring, firing, and disciplining of department personnel come within the scope of the sheriff's executive authority. *Nat'l Union of Police Officers Local 502-M, AFL-CIO v Wayne Co Bd of Comm'rs*, 93 Mich App 76, 82-83, 89; 286 NW2d 242 (1979). Furthermore, executive officials have the authority to speak to the media about matters for which they bear responsibility as part of their duties. See *American Transmissions, Inc v Attorney General*, 454 Mich 135; 560 NW2d 50 (1997) (finding within the scope of the attorney general's executive authority the televised discussion of criminal investigations with the press). Therefore, a sheriff has inherent authority to discuss with reporters criminal investigations involving deputy sheriffs and his personnel decisions, absent local law or departmental policy indicating otherwise.

The record in this case indicates that defendant spoke to a reporter about an incident involving alleged misconduct, possibly criminal in nature, by members of his department and Ms. Stehle. Because a sheriff is responsible for his employees and has authority to investigate alleged misconduct in which they are involved, as well as possible criminal activities of other persons, defendant was acting within the scope of his authority in speaking to the reporter about such matters. Therefore, the trial court did not err in concluding that defendant had immunity from tort liability.

Affirmed.

/s/ Jessica R. Cooper
/s/ Kathleen Jansen
/s/ Jane E. Markey